



Rep. Carol Ammons

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1 AMENDMENT TO HOUSE BILL 690

2 AMENDMENT NO. _____. Amend House Bill 690 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Day and Temporary Labor Services Act is
5 amended by changing Sections 20, 30, 40, 45, and 95 and by
6 adding Section 33 as follows:

7 (820 ILCS 175/20)

8 Sec. 20. Transportation.

9 (a) A day and temporary labor service agency or a third
10 party client or a contractor or agent of either shall charge no
11 fee to transport a day or temporary laborer to or from the
12 designated work site.

13 (b) A day and temporary labor service agency is responsible
14 for the conduct and performance of any person who transports a
15 day or temporary laborer from the agency to a work site, unless
16 the transporter is: (1) a public mass transportation system as

1 defined in Section 2 of the Local Mass Transit District Act;
2 (2) a common carrier; (3) the day or temporary laborer
3 providing his or her own transportation; or (4) selected
4 exclusively by and at the sole choice of the day or temporary
5 laborer for transportation in a vehicle not owned or operated
6 by the day and temporary labor service agency. If any day and
7 temporary labor service agency provides transportation to a day
8 or temporary laborer or refers a day or temporary laborer as
9 provided in subsection (c), the day and temporary labor service
10 agency may not allow a motor vehicle to be used for the
11 transporting of day or temporary laborers if the agency knows
12 or should know that the motor vehicle used for the
13 transportation of day or temporary laborers is unsafe or not
14 equipped as required by this Act or by any rule adopted under
15 this Act, unless the vehicle is: (1) the property of a public
16 mass transportation system as defined in Section 2 of the Local
17 Mass Transit District Act; (2) the property of a common
18 carrier; (3) the day or temporary laborer's personal vehicle;
19 or (4) a vehicle of a day or temporary laborer used to carpool
20 other day or temporary laborers and which is selected
21 exclusively by and at the sole choice of the day or temporary
22 laborer for transportation.

23 (c) A day and temporary labor service agency may not refer
24 a day or temporary laborer to any person for transportation to
25 a work site unless that person is (1) a public mass
26 transportation system as defined in Section 2 of the Local Mass

1 Transit District Act or (2) providing the transportation at no
2 fee. Directing the day or temporary laborer to accept a
3 specific car pool as a condition of work shall be considered a
4 referral by the day and temporary labor service agency. Any
5 mention or discussion of the cost of a car pool shall be
6 considered a referral by the agency. Informing a day or
7 temporary laborer of the availability of a car pool driven by
8 another day or temporary laborer shall not be considered a
9 referral by the agency.

10 (d) Any motor vehicle that is owned or operated by the day
11 and temporary labor service agency or a third party client, or
12 a contractor or agent of either, or to which a day and
13 temporary labor service agency refers a day or temporary
14 laborer, which is used for the transportation of day or
15 temporary laborers shall have proof of financial
16 responsibility as provided for in Chapter 8 of the Illinois
17 Vehicle Code or as required by Department rules. The driver of
18 the vehicle shall hold a valid license to operate motor
19 vehicles in the correct classification and shall be required to
20 produce the license immediately upon demand by the Department,
21 its inspectors or deputies, or any other person authorized to
22 enforce this Act. The Department shall forward a violation of
23 this subsection to the appropriate law enforcement authorities
24 or regulatory agencies, whichever is applicable.

25 (e) No motor vehicle that is owned or operated by the day
26 and temporary labor service agency or a third party client, or

1 a contractor or agent of either, or to which a day and
2 temporary labor service agency refers a day or temporary
3 laborer, which is used for the transportation of day or
4 temporary laborers may be operated if it does not have a seat
5 and a safety belt for each passenger. The Department shall
6 forward a violation of this subsection to the appropriate law
7 enforcement authorities or regulatory agencies, whichever is
8 applicable.

9 (f) If the day or temporary laborer is provided
10 transportation from the point of application to the worksite by
11 the hiring labor service agency operating pursuant to this Act,
12 the day or temporary laborer shall also be provided
13 transportation back to the point of application, unless the day
14 or temporary laborer advises or agrees prior to leaving for the
15 place of employment to obtain alternative transportation after
16 the work shift is completed.

17 (Source: P.A. 94-511, eff. 1-1-06.)

18 (820 ILCS 175/30)

19 Sec. 30. Wage Payment and Notice.

20 (a) At the time of payment of wages, a day and temporary
21 labor service agency shall provide each day or temporary
22 laborer with a detailed itemized statement, on the day or
23 temporary laborer's paycheck stub or on a form approved by the
24 Department, listing the following:

25 (1) the name, address, and telephone number of each

1 third party client at which the day or temporary laborer
2 worked. If this information is provided on the day or
3 temporary laborer's paycheck stub, a code for each third
4 party client may be used so long as the required
5 information for each coded third party client is made
6 available to the day or temporary laborer;

7 (2) the number of hours worked by the day or temporary
8 laborer at each third party client each day during the pay
9 period. If the day or temporary laborer is assigned to work
10 at the same work site of the same third party client for
11 multiple days in the same work week, the day and temporary
12 labor service agency may record a summary of hours worked
13 at that third party client's worksite so long as the first
14 and last day of that work week are identified as well. The
15 term "hours worked" has the meaning ascribed to that term
16 in 56 Ill. Adm. Code 210.110 and in accordance with all
17 applicable rules or court interpretations under 56 Ill.
18 Adm. Code 210.110;

19 (3) the rate of payment for each hour worked, including
20 any premium rate or bonus;

21 (4) the total pay period earnings;

22 (5) all deductions made from the day or temporary
23 laborer's compensation made either by the third party
24 client or by the day and temporary labor service agency,
25 and the purpose for which deductions were made, including
26 for the day or temporary laborer's transportation, food,

1 equipment, withheld income tax, withheld social security
2 payments, and every other deduction; and

3 (6) any additional information required by rules
4 issued by the Department.

5 (a-1) For each day or temporary laborer who is contracted
6 to work a single day, the third party client shall, at the end
7 of the work day, provide such day or temporary laborer with a
8 Work Verification Form, approved by the Department, which shall
9 contain the date, the day or temporary laborer's name, the work
10 location, and the hours worked on that day. Any third party
11 client who violates this subsection (a-1) may be subject to a
12 civil penalty not to exceed \$500 for each violation found by
13 the Department. Such civil penalty may increase to \$2,500 for a
14 second or subsequent violation. For purposes of this subsection
15 (a-1), each violation of this subsection (a-1) for each day or
16 temporary laborer and for each day the violation continues
17 shall constitute a separate and distinct violation.

18 (b) A day and temporary labor service agency shall provide
19 each worker an annual earnings summary within a reasonable time
20 after the preceding calendar year, but in no case later than
21 February 1. A day and temporary labor service agency shall, at
22 the time of each wage payment, give notice to day or temporary
23 laborers of the availability of the annual earnings summary or
24 post such a notice in a conspicuous place in the public
25 reception area.

26 (c) At the request of a day or temporary laborer, a day and

1 temporary labor service agency shall hold the daily wages of
2 the day or temporary laborer and make either weekly, bi-weekly,
3 or semi-monthly payments. The wages shall be paid in a single
4 check, or, at the day or temporary laborer's sole option, by
5 direct deposit or other manner approved by the Department,
6 representing the wages earned during the period, either weekly,
7 bi-weekly, or semi-monthly, designated by the day or temporary
8 laborer in accordance with the Illinois Wage Payment and
9 Collection Act. Vouchers or any other method of payment which
10 is not generally negotiable shall be prohibited as a method of
11 payment of wages. Day and temporary labor service agencies that
12 make daily wage payments shall provide written notification to
13 all day or temporary laborers of the right to request weekly,
14 bi-weekly, or semi-monthly checks. The day and temporary labor
15 service agency may provide this notice by conspicuously posting
16 the notice at the location where the wages are received by the
17 day or temporary laborers.

18 (d) No day and temporary labor service agency shall charge
19 any day or temporary laborer for cashing a check issued by the
20 agency for wages earned by a day or temporary laborer who
21 performed work through that agency. No day and temporary labor
22 service agency or third party client shall charge any day or
23 temporary laborer for the expense of conducting any consumer
24 report, as that term is defined in the Fair Credit Reporting
25 Act, 15 U.S.C. 1681a(d), any criminal background check of any
26 kind, or any drug test of any kind.

1 (e) Day or temporary laborers shall be paid no less than
2 the wage rate stated in the notice as provided in Section 10 of
3 this Act for all the work performed on behalf of the third
4 party client in addition to the work listed in the written
5 description.

6 (f) The total amount deducted for meals, equipment, and
7 transportation may not cause a day or temporary laborer's
8 hourly wage to fall below the State or federal minimum wage.
9 However, a day and temporary labor service agency may deduct
10 the actual market value of reusable equipment provided to the
11 day or temporary laborer by the day and temporary labor service
12 agency which the day or temporary laborer fails to return, if
13 the day or temporary laborer provides a written authorization
14 for such deduction at the time the deduction is made.

15 (g) A day or temporary laborer who is contracted by a day
16 and temporary labor service agency to work at a third party
17 client's worksite but is not utilized by the third party client
18 shall be paid by the day and temporary labor service agency for
19 a minimum of 4 hours of pay at the agreed upon rate of pay.
20 However, in the event the day and temporary labor service
21 agency contracts the day or temporary laborer to work at
22 another location during the same shift, the day or temporary
23 laborer shall be paid by the day and temporary labor service
24 agency for a minimum of 2 hours of pay at the agreed upon rate
25 of pay.

26 (h) A third party client is required to pay wages and

1 related payroll taxes to a licensed day and temporary labor
2 service agency for services performed by the day or temporary
3 laborer for the third party client according to payment terms
4 outlined on invoices, service agreements, or stated terms
5 provided by the day and temporary labor service agency. A third
6 party client who fails to comply with this subsection (h) is
7 subject to the penalties provided in Section 70 of this Act.
8 The Department shall review a complaint filed by a licensed day
9 and temporary labor agency. The Department shall review the
10 payroll and accounting records of the day and temporary labor
11 service agency and the third party client for the period in
12 which the violation of this Act is alleged to have occurred to
13 determine if wages and payroll taxes have been paid to the
14 agency and that the day or temporary laborer has been paid the
15 wages owed him or her.

16 (Source: P.A. 95-499, eff. 8-28-07; 96-1185, eff. 7-22-10.)

17 (820 ILCS 175/33 new)

18 Sec. 33. Permanent placement. A day and temporary labor
19 service agency shall endeavor to permanently place a current
20 temporary laborer in a permanent position with a third party
21 client when the third party client increases its permanent
22 labor force.

23 (820 ILCS 175/40)

24 Sec. 40. Work Restriction; Health and Safety Training.

1 (a) No day and temporary labor service agency shall
2 restrict the right of a day or temporary laborer to accept a
3 permanent position with a third party client to whom the day or
4 temporary laborer has been referred for work or restrict the
5 right of such third party client to offer such employment to a
6 day or temporary laborer. A day and temporary labor service
7 agency may charge a placement fee to a third party client for
8 employing a day or temporary laborer for whom a contract for
9 work was effected by the day and temporary labor service agency
10 not to exceed the equivalent of the total daily commission rate
11 the day and temporary labor service agency would have received
12 over a 60-day period, reduced by the equivalent of the daily
13 commission rate the day and temporary labor service agency
14 would have received for each day the day or temporary laborer
15 has performed work for the day and temporary labor service
16 agency in the preceding 12 months. Days worked at a day and
17 temporary labor service agency in the 12 months preceding the
18 effective date of this amendatory Act of the 94th General
19 Assembly shall be included for purposes of calculating the
20 maximum placement fee described in this Section. However,
21 placement of a day or temporary laborer who is contracted by a
22 day and temporary labor service agency to provide skilled labor
23 shall not be subject to any placement fee cap. For purposes of
24 this Section, a day or temporary laborer who performs "skilled
25 labor" shall apply only where the day and temporary labor
26 service agency performs an advanced application process, a

1 screening process, which may include processes such as advanced
2 testing, and a job interview. No fee provided for under this
3 Section may be assessed or collected by the day and temporary
4 labor service agency when the day or temporary laborer is
5 offered permanent work following the suspension or revocation
6 of the day and temporary labor service agency's registration by
7 the Department.

8 (b) Any day and temporary labor service agency and third
9 party client must comply with all applicable Occupational
10 Safety and Health Administration (OSHA) standards for all day
11 or temporary laborers including, but not limited to,
12 recordkeeping, safety and health training, powered industrial
13 trucks, bloodborne pathogens, hazard communications, personal
14 protective equipment, whistleblower rights, and recordkeeping.
15 Under OSHA, both third party clients and day and temporary
16 service agencies are joint employers of day or temporary
17 laborers, and are both responsible for providing and
18 maintaining a safe work environment for these laborers. To
19 ensure that OSHA standards are met for day or temporary
20 laborers, third party clients and temporary and day labor
21 service agencies must implement the following actions laid out
22 by OSHA in its Temporary Worker Initiative:

23 (1) The day and temporary labor service agency and the
24 third party client must set out their respective
25 responsibilities for compliance with all relevant OSHA
26 standards in their contract.

1 (2) The tasks the day or temporary laborer is expected
2 to perform, and the safety and health responsibilities of
3 each employer as stated in the day and temporary labor
4 service agency-third party client contract should be
5 communicated to the laborer before the laborer begins work
6 at the job site.

7 (3) Day and temporary labor service agencies have a
8 duty to inquire into the conditions of their laborers'
9 assigned workplaces at third party clients. They must
10 ensure that they are sending laborers to safe workplaces.

11 (4) Ignorance of hazards is not an excuse.

12 (5) Day and temporary labor service agencies must
13 determine what conditions exist at their third party
14 clients, what hazards may be encountered, and how best to
15 ensure protection for the day or temporary laborers.

16 (6) The day and temporary labor service agency has the
17 duty to inquire and verify that the third party client has
18 fulfilled its responsibilities for a safe workplace.

19 (7) Third party clients must provide day or temporary
20 laborers with the identical OSHA required safety training,
21 protective equipment, and other safeguards that are
22 provided to the third party client's directly hired
23 employees performing similar or the same work.

24 (8) The key is communication between the day and
25 temporary labor service agency and the third party client
26 to ensure that the necessary protections are provided.

1 (9) The day and temporary labor service agencies need
2 not become experts on specific workplace hazards, but must
3 determine what conditions exist at their third party
4 clients, what hazards may be encountered, and how best to
5 ensure protection for the day or temporary laborers.

6 (10) The day and temporary labor service agency has the
7 duty to inquire and verify that the host has fulfilled its
8 responsibilities for a safe workplace.

9 (11) Just as important, third party clients must treat
10 laborers like the third party client's directly hired
11 workers in terms of training and safety and health
12 protections.

13 (Source: P.A. 94-511, eff. 1-1-06.)

14 (820 ILCS 175/45)

15 Sec. 45. Registration; Department of Labor.

16 (a) A day and temporary labor service agency which is
17 located, operates or transacts business within this State shall
18 register with the Department of Labor in accordance with rules
19 adopted by the Department for day and temporary labor service
20 agencies and shall be subject to this Act and any rules adopted
21 under this Act. Each day and temporary labor service agency
22 shall provide proof of an employer account number issued by the
23 Department of Employment Security for the payment of
24 unemployment insurance contributions as required under the
25 Unemployment Insurance Act, and proof of valid workers'

1 compensation insurance in effect at the time of registration
2 covering all of its employees. If, at any time, a day and
3 temporary labor service agency's workers' compensation
4 insurance coverage lapses, the agency shall have an affirmative
5 duty to report the lapse of such coverage to the Department and
6 the agency's registration shall be suspended until the agency's
7 workers' compensation insurance is reinstated. The Department
8 may assess each day and temporary labor service agency a
9 non-refundable registration fee not exceeding \$1,000 per year
10 per agency and a non-refundable fee not to exceed \$250 for each
11 branch office or other location where the agency regularly
12 contracts with day or temporary laborers for services. The fee
13 may be paid by check or money order and the Department may not
14 refuse to accept a check on the basis that it is not a
15 certified check or a cashier's check. The Department may charge
16 an additional fee to be paid by a day and temporary labor
17 service agency if the agency, or any person on the agency's
18 behalf, issues or delivers a check to the Department that is
19 not honored by the financial institution upon which it is
20 drawn. The Department shall also adopt rules for violation
21 hearings and penalties for violations of this Act or the
22 Department's rules in conjunction with the penalties set forth
23 in this Act.

24 (a-5) At the time of registration with the Department of
25 Labor each year, a day and temporary labor service agency shall
26 provide to the Department of Employment Security a report

1 containing the information identified in paragraph (9) of
2 subsection (a) of Section 12, broken down by branch office, in
3 the aggregate for all day or temporary laborers assigned within
4 Illinois in the prior year to be submitted on a form created by
5 the Department of Employment Security. A day and temporary
6 labor service agency that fails to report to the Department of
7 Employment Security is subject to a civil penalty of \$50 for
8 each failure to comply.

9 The Department of Employment Security shall aggregate the
10 information, remove identifying data, and make the information
11 available on a municipal basis and county basis.

12 (b) It is a violation of this Act to operate a day and
13 temporary labor service agency without first registering with
14 the Department in accordance with subsection (a) of this
15 Section. The Department shall create and maintain at regular
16 intervals on its website, accessible to the public: (1) a list
17 of all registered day and temporary labor service agencies in
18 the State whose registration is in good standing; (2) a list of
19 day and temporary labor service agencies in the State whose
20 registration has been suspended, including the reason for the
21 suspension, the date the suspension was initiated, and the
22 date, if known, the suspension is to be lifted; and (3) a list
23 of day and temporary labor service agencies in the State whose
24 registration has been revoked, including the reason for the
25 revocation and the date the registration was revoked. The
26 Department has the authority to assess a penalty against any

1 day and temporary labor service agency that fails to register
2 with the Department of Labor in accordance with this Act or any
3 rules adopted under this Act of \$500 for each violation. Each
4 day during which a day and temporary labor service agency
5 operates without registering with the Department shall be a
6 separate and distinct violation of this Act.

7 (c) An applicant is not eligible to register to operate a
8 day and temporary labor service agency under this Act if the
9 applicant or any of its officers, directors, partners, or
10 managers or any owner of 25% or greater beneficial interest:

11 (1) has been involved, as owner, officer, director,
12 partner, or manager, of any day and temporary labor service
13 agency whose registration has been revoked or has been
14 suspended without being reinstated within the 5 years
15 immediately preceding the filing of the application; or

16 (2) is under the age of 18.

17 (d) Every agency shall post and keep posted at each
18 location, in a position easily accessible to all employees,
19 notices as supplied and required by the Department containing a
20 copy or summary of the provisions of the Act and a notice which
21 informs the public of a toll-free telephone number for day or
22 temporary laborers and the public to file wage dispute
23 complaints and other alleged violations by day and temporary
24 labor service agencies. Such notices shall be in English or any
25 other language generally understood in the locale of the day
26 and temporary labor service agency.

1 (Source: P.A. 94-511, eff. 1-1-06.)

2 (820 ILCS 175/95)

3 Sec. 95. Private Right of Action.

4 (a) A person aggrieved by a violation of this Act or any
5 rule adopted under this Act by a day and temporary labor
6 service agency or a third party client may file suit in circuit
7 court of Illinois, in the county where the alleged offense
8 occurred or where any day or temporary laborer who is party to
9 the action resides, without regard to exhaustion of any
10 alternative administrative remedies provided in this Act. A day
11 and temporary labor service agency aggrieved by a violation of
12 this Act or any rule adopted under this Act by a third party
13 client may file suit in circuit court of Illinois, in the
14 county where the alleged offense occurred or where the day and
15 temporary labor service agency which is party to the action is
16 located. Actions may be brought by one or more day or temporary
17 laborers for and on behalf of themselves and other day or
18 temporary laborers similarly situated. A day or temporary
19 laborer whose rights have been violated under this Act by a day
20 and temporary labor service agency or a third party client or a
21 day and temporary labor service agency whose rights have been
22 violated under this Act by a third party client is entitled to
23 collect:

24 (1) in the case of a wage and hour violation, the
25 amount of any wages, salary, employment benefits, or other

1 compensation denied or lost to the day or temporary laborer
2 or day and temporary labor service agency by reason of the
3 violation, plus an equal amount in liquidated damages;

4 (2) in the case of a health and safety or notice
5 violation, compensatory damages and an amount between \$50
6 and up to \$500 for each ~~the~~ violation of each subpart of
7 each Section;

8 (3) in the case of unlawful retaliation, all legal or
9 equitable relief as may be appropriate; and

10 (4) attorney's fees and costs.

11 (b) The right of an aggrieved person to bring an action
12 under this Section terminates upon the passing of 3 years from
13 the final date of employment by the day and temporary labor
14 agency or the third party client or upon the passing of 3 years
15 from the date of termination of the contract between the day
16 and temporary labor service agency and the third party client.
17 This limitations period is tolled if a day labor employer has
18 deterred a day and temporary labor service agency or day or
19 temporary laborer's exercise of rights under this Act by
20 contacting or threatening to contact law enforcement agencies.
21 (Source: P.A. 96-1185, eff. 7-22-10.)".